

S. 69

[Report No. 95-104]

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IN THE SENATE OF THE UNITED STATES

JANUARY 10, 1977

Mr. STEVENSON (for himself, Mr. MOYNIHAN, Mr. DOMENICI, Mr. MATSUNAGA, Mr. PELL, and Mr. DeCONCINI) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

APRIL 26 (legislative day, FEBRUARY 21), 1977

Reported by Mr. STEVENSON, with an amendment to the text, and an amendment to the title

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To amend and extend the Export Administration Act.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3                       ~~SHORT TITLE~~

4       ~~SECTION 1. This Act may be cited as the "Export Ad-~~  
5       ~~ministration Amendments of 1977".~~

6                       ~~TITLE I—EXPORT ADMINISTRATION~~

7                       ~~IMPROVEMENTS AND EXTENSION~~

8                       ~~EXTENSION OF EXPORT ADMINISTRATION ACT~~

9       ~~SEC. 101. Section 14 of the Export Administration Act~~  
10     ~~of 1969 is amended by striking out "September 30, 1976"~~  
11     ~~and inserting in lieu thereof "September 30, 1978".~~

1 ~~AUTHORIZATION OF APPROPRIATIONS~~

2 ~~SEC. 102. The Export Administration Act of 1969 is~~  
 3 ~~amended by inserting after section 12 the following new sec-~~  
 4 ~~tion 13 and redesignating existing sections 13 and 14 as~~  
 5 ~~sections 14 and 15, respectively:~~

6 ~~"AUTHORIZATION OF APPROPRIATIONS~~

7 ~~"SEC. 13. Notwithstanding any other provision of law,~~  
 8 ~~no appropriation shall be made under any law to the Depart-~~  
 9 ~~ment of Commerce for expenses to carry out the purposes of~~  
 10 ~~this Act for any fiscal year commencing on or after October 1,~~  
 11 ~~1977, unless previously and specifically authorized by legis-~~  
 12 ~~lation enacted after the enactment of this section."~~

13 ~~CONTROL OF EXPORTS FOR NATIONAL SECURITY PURPOSES;~~

14 ~~FOREIGN AVAILABILITY~~

15 ~~SEC. 103. (a) Section 4 (b) of the Export Administra-~~  
 16 ~~tion Act of 1969 is amended—~~

17 ~~(1) by striking out the third sentence of paragraph~~

18 ~~(1);~~

19 ~~(2) by striking out paragraphs (2) through (4);~~

20 ~~and~~

21 ~~(3) by inserting the following new paragraph (2):~~

22 ~~"(2) (A) In administering export controls for national~~  
 23 ~~security purposes as prescribed in section 3 (2) (C) of this~~  
 24 ~~Act, United States policy toward individual countries shall~~  
 25 ~~not be determined exclusively on the basis of a country's~~

1 ~~Communist or non-Communist status but shall take into ac-~~  
2 ~~count such factors as the country's present and potential re-~~  
3 ~~lationship to the United States, its present and potential~~  
4 ~~relationship to countries friendly or hostile to the United~~  
5 ~~States, its ability and willingness to control retransfers of~~  
6 ~~United States exports in accordance with United States~~  
7 ~~policy, and such other factors as the President may deem ap-~~  
8 ~~propriate. The President shall periodically review United~~  
9 ~~States policy toward individual countries to determine~~  
10 ~~whether such policy is appropriate in light of the factors~~  
11 ~~specified in the preceding sentence. The results of such~~  
12 ~~review, together with the justification for United States policy~~  
13 ~~in light of such factors, shall be included in the semiannual~~  
14 ~~report of the Secretary of Commerce required by section 10~~  
15 ~~of this Act for the first half of 1977 and in every second such~~  
16 ~~report thereafter.~~

17       ~~“(B) Rules and regulations under this subsection may~~  
18 ~~provide for denial of any request or application for author-~~  
19 ~~ity to export articles, materials, or supplies, including techni-~~  
20 ~~cal data, or any other information, from the United States,~~  
21 ~~its territories, and possessions, to any nation or combination~~  
22 ~~of nations threatening the national security of the United~~  
23 ~~States if the President determines that their export would~~  
24 ~~prove detrimental to the national security of the United~~  
25 ~~States. The President shall not impose export controls for~~

1 ~~national security purposes on the export from the United~~  
2 ~~States of articles, materials, or supplies, including technical~~  
3 ~~data or other information, which he determines are available~~  
4 ~~without restriction from sources outside the United States~~  
5 ~~in significant quantities and comparable in quality to those~~  
6 ~~produced in the United States, unless the President deter-~~  
7 ~~mines that adequate evidence has been presented to him~~  
8 ~~demonstrating that the absence of such controls would prove~~  
9 ~~detrimental to the national security of the United States.~~  
10 ~~The nature of such evidence shall be included in the semi-~~  
11 ~~annual report required by section 10 of this Act. Where, in~~  
12 ~~accordance with this paragraph, export controls are im-~~  
13 ~~posed for national security purposes notwithstanding foreign~~  
14 ~~availability, the President shall take steps to initiate negoti-~~  
15 ~~ations with the governments of the appropriate foreign coun-~~  
16 ~~tries for the purpose of eliminating such availability."~~

17 ~~(b) (1) Section 4 (h) of the Export Administration Act~~  
18 ~~of 1969 is amended by striking out "controlled country" in~~  
19 ~~the first sentence of paragraph (1) and in the second sen-~~  
20 ~~tence of paragraph (2) and inserting in lieu thereof "coun-~~  
21 ~~try to which exports are restricted for national security~~  
22 ~~purposes".~~

23 ~~(2) Section 4 (h) (2) (A) of such Act is amended by~~  
24 ~~striking out "controlled" and inserting in lieu thereof "such".~~

25 ~~(3) Section 4 (h) (4) of such Act is amended—~~

1       ~~(A) by inserting "and" at the end of subpara-~~  
2 ~~graph (A); and~~

3       ~~(B) by striking out the semicolon at the end of~~  
4 ~~subparagraph (B) thereof and all that follows the semi-~~  
5 ~~colon and inserting in lieu thereof a period.~~

6       ~~(4) The amendments made by this subsection shall be-~~  
7 ~~come effective upon the expiration of 90 days after the receipt~~  
8 ~~by the Congress of the semiannual report of the Secretary of~~  
9 ~~Commerce required by section 10 of such Act for the first~~  
10 ~~half of 1977.~~

11       ~~(c) Section 4 (h) of such Act is amended—~~

12           ~~(1) in paragraph (1)—~~

13               ~~(A) in the first sentence by striking out "sig-~~  
14 ~~nificantly increase the military capability of such~~  
15 ~~country" and inserting in lieu thereof "make a~~  
16 ~~significant contribution to the military potential of~~  
17 ~~such country"; and~~

18               ~~(B) in the second sentence by striking out~~  
19 ~~"significantly increase the military capability of~~  
20 ~~such country" and inserting in lieu thereof "make a~~  
21 ~~significant contribution, which would prove detri-~~  
22 ~~mental to the national security of the United States,~~  
23 ~~to the military potential of such country"; and~~

24           ~~(2) in paragraph (2) (A), by striking out "sig-~~  
25 ~~nificantly increase the military capability of such coun-~~

1     ~~try" and inserting in lieu thereof "make a significant~~  
 2     ~~contribution, which would prove detrimental to the~~  
 3     ~~national security of the United States; to the military~~  
 4     ~~potential of such country or any other country".~~

5     ~~(d) Section 6 (b) of such Act is amended by striking~~  
 6     ~~out "Communist-dominated nation" and inserting in lieu~~  
 7     ~~thereof "country to which exports are restricted for na-~~  
 8     ~~tional security or foreign policy purposes".~~

9     ~~EXEMPTION FOR CERTAIN AGRICULTURAL COMMODITIES~~  
 10     ~~FROM CERTAIN EXPORT LIMITATIONS~~

11     ~~SEC. 104. Section 4 (f) of the Export Administration~~  
 12     ~~Act of 1969 is amended—~~

13     ~~(1) by redesignating such section as section~~  
 14     ~~4 (f) (1); and~~

15     ~~(2) by adding at the end thereof the following new~~  
 16     ~~paragraph:~~

17     ~~"(2) Upon approval of the Secretary of Commerce, in~~  
 18     ~~consultation with the Secretary of Agriculture, agricultural~~  
 19     ~~commodities purchased by or for use in a foreign country~~  
 20     ~~may remain in the United States for export at a later date~~  
 21     ~~free from any quantitative limitations on export which may~~  
 22     ~~be imposed pursuant to section 3 (2) (A) of this Act sub-~~  
 23     ~~sequent to such approval. The Secretary of Commerce may~~  
 24     ~~not grant approval hereunder unless he receives adequate~~  
 25     ~~assurance and, in conjunction with the Secretary of Agri-~~

1 ~~culture, finds that such commodities will eventually be~~  
 2 ~~exported, that neither the sale nor export thereof will~~  
 3 ~~result in an excessive drain of scarce materials and have~~  
 4 ~~a serious domestic inflationary impact, that storage of such~~  
 5 ~~commodities in the United States will not unduly limit the~~  
 6 ~~space available for storage of domestically owned commodi-~~  
 7 ~~ties, and that the purpose of such storage is to establish a~~  
 8 ~~reserve of such commodities for later use, not including resale~~  
 9 ~~to or use by another country. The Secretary of Commerce~~  
 10 ~~is authorized to issue such rules and regulations as may be~~  
 11 ~~necessary to implement this paragraph."~~

12 ~~CONGRESSIONAL REVIEW OF EXPORT CONTROLS ON~~  
 13 ~~AGRICULTURAL COMMODITIES~~

14 ~~SEC. 105. Section 4 (f) of the Export Administration~~  
 15 ~~Act of 1969, as amended by section 104 of this Act, is fur-~~  
 16 ~~ther amended by adding at the end thereof the following new~~  
 17 ~~paragraph:~~

18 ~~"(3) If the authority conferred by this section is exer-~~  
 19 ~~cised to prohibit or curtail the exportation of any agricul-~~  
 20 ~~tural commodity in order to effectuate the policies set forth~~  
 21 ~~in clause (B) of paragraph (2) of section 3 of this Act, the~~  
 22 ~~President shall immediately report such prohibition or cur-~~  
 23 ~~tailment to the Congress, setting forth the reasons therefor~~  
 24 ~~in detail. If the Congress, within 30 days after the date of its~~  
 25 ~~receipt of such report, adopts a concurrent resolution disap-~~

~~1 proving such prohibition or curtailment, then such prohibi-~~  
~~2 tion or curtailment shall cease to be effective with the adop-~~  
~~3 tion of such resolution. In the computation of such 30-day~~  
~~4 period, there shall be excluded the days on which either~~  
~~5 House is not in session because of an adjournment of more~~  
~~6 than 3 days to a day certain or because of an adjournment~~  
~~7 of the Congress sine die."~~

~~8 PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS~~

~~9     SEC. 106. Section 4(g) of the Export Administration~~  
~~10 Act of 1969 is amended to read as follows:~~

~~11     "(g) (1) It is the intent of Congress that any export~~  
~~12 license application required under this Act shall be approved~~  
~~13 or disapproved within 90 days of its receipt. Upon the ex-~~  
~~14 piration of the 90-day period beginning on the date of its~~  
~~15 receipt, any export license application required under this~~  
~~16 Act which has not been approved or disapproved shall be~~  
~~17 deemed to be approved and the license shall be issued unless~~  
~~18 the Secretary of Commerce or other official exercising au-~~  
~~19 thority under this Act finds that additional time is required~~  
~~20 and notifies the applicant in writing of the specific circum-~~  
~~21 stances requiring such additional time and the estimated date~~  
~~22 when the decision will be made.~~

~~23     "(2) (A) With respect to any export license applica-~~  
~~24 tion not finally approved or disapproved within 90 days of~~  
~~25 its receipt as provided in paragraph (1) of this subsection,~~



1 ~~the applicant shall, to the maximum extent consistent with~~  
2 ~~the national security of the United States, be specifically in-~~  
3 ~~formed in writing of questions raised and negative considera-~~  
4 ~~tions or recommendations made by any agency or depart-~~  
5 ~~ment of the Government with respect to such license appli-~~  
6 ~~cation, and shall be accorded an opportunity to respond to~~  
7 ~~such questions, considerations, or recommendations in writ-~~  
8 ~~ing prior to final approval or disapproval by the Secretary~~  
9 ~~of Commerce or other official exercising authority under this~~  
10 ~~Act. In making such final approval or disapproval, the Sec-~~  
11 ~~retary of Commerce or other official exercising authority~~  
12 ~~under this Act shall take fully into account the applicant's~~  
13 ~~response.~~

14       ~~“(B) Whenever the Secretary determines that it is~~  
15 ~~necessary to refer an export license application to any multi-~~  
16 ~~lateral review process for approval, he shall first, if the ap-~~  
17 ~~plicant so requests, provide the applicant with an oppor-~~  
18 ~~tunity to review any documentation to be submitted to such~~  
19 ~~process for the purpose of describing the export in question,~~  
20 ~~in order to determine whether such documentation accurately~~  
21 ~~describes the proposed export.~~

22       ~~“(3) In any denial of an export license application, the~~  
23 ~~applicant shall be informed in writing of the specific statutory~~  
24 ~~basis for such denial.”.~~

~~EXPORTS OF TECHNICAL INFORMATION~~

~~SEC. 107. Section 4 of the Export Administration Act of 1969 is amended by adding at the end thereof the following new subsection (j) :~~

~~“(j) (1) Any person (including any college, university, or other educational institution) who enters into any contract, protocol, agreement, or other understanding for, or which may result in, the transfer from the United States of technical data or other information to any country to which exports are restricted for national security or foreign policy purposes shall furnish to the Secretary of Commerce such documents and information with respect to such agreement as the Secretary shall by regulation require in order to enable him to monitor the effects of such transfers on the national security and foreign policy of the United States.~~

~~“(2) The Secretary of Commerce shall conduct a study of the problem of the export, by publications or any other means of public dissemination, of technical data or other information from the United States, the export of which might prove detrimental to the national security or foreign policy of the United States. Not later than 6 months after the enactment of this subsection, the Secretary shall report to the Congress his assessment of the impact of the export of such technical data or other information by such means on the national security and foreign policy of the United~~

1 ~~States and his recommendations for monitoring such exports~~  
 2 ~~without impairing freedom of speech, freedom of press, or the~~  
 3 ~~freedom of scientific exchange. Such report may be included~~  
 4 ~~in the semiannual report required by section 10 of this Act.”.~~

#### 5 ~~CERTAIN PETROLEUM EXPORTS~~

6 ~~SEC. 108. Section 4 of the Export Administration Act~~  
 7 ~~of 1969, as amended by section 107 of this Act, is further~~  
 8 ~~amended by adding at the end thereof the following new~~  
 9 ~~subsection (k):~~

10 ~~“(k) Petroleum products refined in United States~~  
 11 ~~Foreign Trade Zones, or in the United States Territory of~~  
 12 ~~Guam, from foreign crude oil shall be excluded from any~~  
 13 ~~quantitative restrictions imposed pursuant to section 3(2)~~  
 14 ~~(A) of this Act, except that, if the Secretary of Commerce~~  
 15 ~~finds that a product is in short supply, the Secretary of Com-~~  
 16 ~~merce may issue such rules and regulations as may be~~  
 17 ~~necessary to limit exports.”.~~

#### 18 ~~EXPORT OF HORSES~~

19 ~~SEC. 109. Section 4 of the Export Administration Act~~  
 20 ~~of 1969, as amended by sections 107 and 108 of this Act,~~  
 21 ~~is further amended by adding at the end thereof the follow-~~  
 22 ~~ing new subsection (l):~~

23 ~~“(l) (1) Notwithstanding any other provision of this~~  
 24 ~~Act, no horse may be exported by sea from the United~~  
 25 ~~States, its territories and possessions, unless such horse is~~

1 ~~part of a consignment of horses with respect to which a~~  
 2 ~~waiver has been granted under paragraph (2) of this sub-~~  
 3 ~~section.~~

4       ~~"(2) The Secretary of Commerce, in consultation with~~  
 5 ~~the Secretary of Agriculture, may issue rules and regula-~~  
 6 ~~tions providing for the granting of waivers permitting the~~  
 7 ~~export by sea of a specified consignment of horses, if the~~  
 8 ~~Secretary of Commerce, in consultation with the Secretary~~  
 9 ~~of Agriculture, determines that no horse in that consignment~~  
 10 ~~is being exported for purposes of slaughter."~~

#### 11                   ~~TECHNICAL ADVISORY COMMITTEES~~

12       ~~SEC. 110. (a) Section 5 (c) (1) of the Export Admin-~~  
 13 ~~istration Act of 1969 is amended by striking out "two" in~~  
 14 ~~the last sentence thereof and inserting in lieu thereof "four".~~

15       ~~(b) The second sentence of section 5 (c) (2) of such~~  
 16 ~~Act is amended to read as follows: "Such committees, where~~  
 17 ~~they have expertise in such matters, shall be consulted with~~  
 18 ~~respect to questions involving (A) technical matters, (B)~~  
 19 ~~worldwide availability and actual utilization of production~~  
 20 ~~technology, (C) licensing procedures which affect the level~~  
 21 ~~of export controls applicable to any articles, materials, and~~  
 22 ~~supplies, including technical data or other information, and~~  
 23 ~~(D) exports subject to multilateral controls in which the~~  
 24 ~~United States participates including proposed revisions of~~  
 25 ~~any such multilateral controls."~~

1     ~~(c) Section 5 (c) (2) of such Act is further amended~~  
 2     ~~by striking out the third sentence and inserting in lieu thereof~~  
 3     ~~the following: "The Secretary shall include in each semi-~~  
 4     ~~annual report required by section 10 of this Act an account-~~  
 5     ~~ing of the consultations undertaken pursuant to this para-~~  
 6     ~~graph, the use made of the advice rendered by the tech-~~  
 7     ~~nical advisory committees pursuant to this paragraph, and~~  
 8     ~~the contributions of the technical advisory committees to~~  
 9     ~~carrying out the policies of this Act."~~

10                     ~~PENALTIES FOR VIOLATIONS~~

11     ~~SEC. 111. (a) Section 6 (a) of the Export Administra-~~  
 12     ~~tion Act of 1969 is amended—~~

13             ~~(1) in the first sentence, by striking out "\$10,000"~~  
 14     ~~and inserting in lieu thereof "\$25,000"; and~~

15             ~~(2) in the second sentence, by striking out~~  
 16     ~~"\$20,000" and inserting in lieu thereof "\$50,000".~~

17     ~~(b) Section 6 (b) of such Act is amended by striking~~  
 18     ~~out "\$20,000" and inserting in lieu thereof "\$50,000".~~

19     ~~(c) Section 6 (c) of such Act is amended by striking~~  
 20     ~~out "\$1,000" and inserting in lieu thereof "\$10,000".~~

21     ~~(d) Section 6 (d) of such Act is amended by adding at~~  
 22     ~~the end thereof the following new sentence: "In addition,~~  
 23     ~~the payment of any penalty imposed under subsection (c)~~  
 24     ~~may be deferred or suspended in whole or in part for a~~  
 25     ~~period of time no longer than any probation period (which~~

1 ~~may exceed one year) that may be imposed upon such~~  
 2 ~~person. Such a deferral or suspension shall not operate as~~  
 3 ~~a bar to the collection of the penalty in the event that the~~  
 4 ~~conditions of the suspension, deferral, or probation are not~~  
 5 ~~fulfilled.”.~~

#### 6 ~~AVAILABILITY OF INFORMATION TO CONGRESS~~

7 ~~SEC. 112. (a) Section 7 (c) of the Export Administra-~~  
 8 ~~tion Act of 1969 is amended by adding at the end thereof the~~  
 9 ~~following new sentence: “Nothing in this Act shall be con-~~  
 10 ~~strued as authorizing the withholding of information from~~  
 11 ~~Congress, and any information obtained under this Act,~~  
 12 ~~including any report or license application required under~~  
 13 ~~section 4 (b) and any document or information required~~  
 14 ~~under section 4 (j) (1), shall be made available upon request~~  
 15 ~~to any committee of Congress or any subcommittee thereof.”.~~

16 ~~(b) Section 4 (c) (1) of such Act is amended by insert-~~  
 17 ~~ing immediately before the period at the end of the last sen-~~  
 18 ~~tence thereof “and in the last sentence of section 7 (c) of this~~  
 19 ~~Act”.~~

#### 20 ~~SIMPLIFICATION OF EXPORT REGULATIONS AND LISTS~~

21 ~~SEC. 113. Section 7 of the Export Administration Act~~  
 22 ~~of 1969 is amended by adding at the end thereof the follow-~~  
 23 ~~ing new subsection (e):~~

24 ~~“(e) The Secretary of Commerce, in consultation with~~  
 25 ~~appropriate United States Government departments and~~

1 ~~agencies and with appropriate technical advisory committees~~  
2 ~~established under section 5 (e), shall review the rules and~~  
3 ~~regulations issued under this Act and the lists of articles, ma-~~  
4 ~~terials, and supplies which are subject to export controls in~~  
5 ~~order to determine how compliance with the provisions of~~  
6 ~~this Act can be facilitated by simplifying such rules and~~  
7 ~~regulations, by simplifying or clarifying such lists, or by any~~  
8 ~~other means. Not later than 1 year after the enactment of~~  
9 ~~this subsection, the Secretary of Commerce shall report to~~  
10 ~~Congress on the actions taken on the basis of such review to~~  
11 ~~simplify such rules and regulations. Such report may be in-~~  
12 ~~cluded in the semiannual report required by section 10 of~~  
13 ~~this Act."~~

#### 14 ~~TERRORISM~~

15 ~~SEC. 114. Section 3 of the Export Administration Act~~  
16 ~~of 1969 is amended by adding at the end thereof the fol-~~  
17 ~~lowing:~~

18 ~~"(8) It is the policy of the United States to use export~~  
19 ~~controls to encourage other countries to take immediate~~  
20 ~~steps to prevent the use of their territory or resources to aid,~~  
21 ~~encourage, or give sanctuary to those persons involved in~~  
22 ~~directing, supporting, or participating in acts of international~~  
23 ~~terrorism. To achieve this objective, the President shall make~~  
24 ~~every reasonable effort to secure the removal or reduction~~  
25 ~~of such assistance to international terrorists through inter-~~

1 ~~national cooperation and agreement before resorting to the~~  
 2 ~~imposition of export controls."~~

3 ~~SEMIANNUAL REPORTS~~

4 ~~SEC. 115. (a) Section 10 of the Export Adminis-~~  
 5 ~~tration Act of 1969 is amended by adding at the end thereof~~  
 6 ~~the following new subsection (e):~~

7 ~~"(e) Each semiannual report shall include an account-~~  
 8 ~~ing of—~~

9 ~~"(1) any organizational and procedural changes~~  
 10 ~~instituted, any reviews undertaken, and any means used~~  
 11 ~~to keep the business sector of the Nation informed,~~  
 12 ~~pursuant to section 4 (a) of this Act;~~

13 ~~"(2) any changes in the exercise of the authori-~~  
 14 ~~ties of section 4 (b) of this Act;~~

15 ~~"(3) any delegations of authority under section~~  
 16 ~~4 (c) of this Act;~~

17 ~~"(4) the disposition of export license applications~~  
 18 ~~pursuant to sections 4 (g) and (h) of this Act;~~

19 ~~"(5) the effects on the national security and for-~~  
 20 ~~ign policy of the United States of transfers from the~~  
 21 ~~United States of technical data or other information~~  
 22 ~~which are reported to the Secretary of Commerce pur-~~  
 23 ~~suant to section 4 (j) of this Act;~~

24 ~~"(6) consultations undertaken with technical ad-~~  
 25 ~~visory committees pursuant to section 5 (e) of this Act;~~



1           ~~"(7) violations of the provisions of this Act and~~  
 2   ~~penalties imposed pursuant to section 6 of this Act;~~  
 3   ~~and~~

4           ~~"(8) a description of actions taken by the Presi-~~  
 5   ~~dent and the Secretary of Commerce to effect the pol-~~  
 6   ~~icies set forth in section 3 (5) of this Act."~~

7   ~~(b) (1) The section heading of such section 10 is~~  
 8   ~~amended by striking out "QUARTERLY".~~

9   ~~(2) Subsection (b) of such section is amended—~~

10       ~~(A) by striking out "quarterly" each time it ap-~~  
 11   ~~pears; and~~

12       ~~(B) by striking out "second" in the first sentence~~  
 13   ~~of paragraph (1).~~

14   ~~SPECIAL REPORT ON MULTILATERAL EXPORT CONTROLS;~~

15   ~~SEC. 116. Not later than 12 months after the enactment~~  
 16   ~~of this section, the President shall submit to the Congress a~~  
 17   ~~special report on multilateral export controls in which the~~  
 18   ~~United States participates pursuant to the Export Admin-~~  
 19   ~~istration Act of 1969 and pursuant to the Mutual Defense~~  
 20   ~~Assistance Control Act of 1951. The purpose of such spe-~~  
 21   ~~cial report shall be to assess the effectiveness of such multi-~~  
 22   ~~lateral export controls and to formulate specific proposals~~  
 23   ~~for increasing the effectiveness of such controls. That special~~  
 24   ~~report shall include—~~

25       ~~(1) the current list of commodities controlled for~~

1 ~~export by agreement of the group known as the Coordi-~~  
2 ~~nating Committee of the Consultative Group (hereafter~~  
3 ~~in this section referred to as the "Committee") and an~~  
4 ~~analysis of the process of reviewing such list and of the~~  
5 ~~changes which result from such review;~~

6 ~~(2) data on and analysis of requests for exceptions~~  
7 ~~to such list;~~

8 ~~(3) a description and an analysis of the process~~  
9 ~~by which decisions are made by the Committee on~~  
10 ~~whether or not to grant such requests;~~

11 ~~(4) an analysis of the uniformity of interpreta-~~  
12 ~~tion and enforcement by the participating countries~~  
13 ~~of the export controls agreed to by the Committee~~  
14 ~~(including controls over the reexport of such commodi-~~  
15 ~~ties from countries not participating in the Committee),~~  
16 ~~and information on each case where such participating~~  
17 ~~countries have acted contrary to the United States inter-~~  
18 ~~pretation of the policy of the Committee, including~~  
19 ~~United States representations to such countries and the~~  
20 ~~response of such countries;~~

21 ~~(5) an analysis of the problem of exports of ad-~~  
22 ~~vanced technology by countries not participating in the~~  
23 ~~Committee, including such exports by subsidiaries or~~  
24 ~~affiliates of United States businesses in such countries;~~

25 ~~(6) an analysis of the effectiveness of any pro-~~

cedures employed in cases in which an exception for a listed commodity is granted by the Committee, to determine whether there has been compliance with any conditions on the use of the excepted commodity which were a basis for the exception; and

(7) detailed recommendations for improving, through formalization or other means, the effectiveness of multilateral export controls, including specific recommendations for the development of more precise criteria and procedures for collective export decisions and for the development of more detailed and formal enforcement mechanisms to assure more uniform interpretation of and compliance with such criteria, procedures and decisions by all countries participating in such multilateral export controls.

#### REVIEW OF UNILATERAL AND MULTILATERAL EXPORT CONTROL LISTS

Sec. 117. The Secretary of Commerce, in cooperation with appropriate United States Government departments and agencies and the appropriate technical advisory committees established pursuant to the Export Administration Act of 1969, shall undertake an investigation to determine whether United States unilateral controls or multilateral controls in which the United States participates should be removed, modified, or added with respect to particular articles,

1 ~~materials, and supplies, including technical data and other~~  
2 ~~information, in order to protect the national security of the~~  
3 ~~United States. Such investigation shall take into account~~  
4 ~~such factors as the availability of such articles, materials, and~~  
5 ~~supplies from other nations and the degree to which the~~  
6 ~~availability of the same from the United States or from any~~  
7 ~~country with which the United States participates in multi-~~  
8 ~~lateral controls would make a significant contribution to the~~  
9 ~~military potential of any country threatening or potentially~~  
10 ~~threatening the national security of the United States. The~~  
11 ~~results of such investigation shall be reported to the Congress~~  
12 ~~not later than 12 months after enactment of this Act.~~

13 ~~SUNSHINE IN GOVERNMENT~~

14 ~~SEC. 118. (a) Each officer or employee of the Depart-~~  
15 ~~ment of Commerce who—~~

16 ~~(1) performs any function or duty under this Act~~  
17 ~~or the Export Administration Act of 1969; and~~

18 ~~(2) has any known financial interest in any person~~  
19 ~~subject to such Acts, or in any person who obtains any~~  
20 ~~license, enters into any agreement, or otherwise receives~~  
21 ~~any benefit under such Acts;~~

22 ~~shall, beginning on February 1, 1977, annually file with~~  
23 ~~the Secretary of Commerce a written statement concerning~~  
24 ~~all such interests held by such officer or employee during the~~

1 ~~preceding calendar year. Such statement shall be available~~  
2 ~~to the public.~~

3 ~~(b) The Secretary of Commerce shall—~~

4 ~~(1) within 90 days after the date of enactment of~~  
5 ~~this Act—~~

6 ~~(A) define the term “known financial inter-~~  
7 ~~est” for purposes of subsection (a) of this section;~~  
8 ~~and—~~

9 ~~(B) establish the methods by which the re-~~  
10 ~~quirement to file written statements specified in sub-~~  
11 ~~section (a) of this section will be monitored and~~  
12 ~~enforced, including appropriate provisions for the~~  
13 ~~filing by such officers and employees of such state-~~  
14 ~~ments and the review by the Secretary of such~~  
15 ~~statements; and~~

16 ~~(2) report to the Congress on June 1 of each calen-~~  
17 ~~dar year with respect to such disclosures and the ac-~~  
18 ~~tions taken in regard thereto during the preceding~~  
19 ~~calendar year.~~

20 ~~(c) In the rules prescribed under subsection (b) of~~  
21 ~~this section, the Secretary may identify specific positions~~  
22 ~~within the Department of Commerce which are of a non-~~  
23 ~~regulatory or nonpolicymaking nature and provide that of~~

1 ~~fiereers or employees occupying such positions shall be exempt~~  
2 ~~from the requirements of this section.~~

3 ~~(d) Any officer or employee who is subject to, and~~  
4 ~~knowingly violates, this section or any regulation issued~~  
5 ~~hereunder, shall be fined not more than \$2,500 or im-~~  
6 ~~prisoned not more than 1 year, or both.~~

7 ~~TITLE II—FOREIGN BOYCOTTS~~

8 ~~PROHIBITION ON COMPLIANCE WITH FOREIGN BOYCOTTS~~

9 ~~SEC. 201. (a) The Export Administration Act of 1969~~  
10 ~~is amended by redesignating section 4A as section 4B and~~  
11 ~~by inserting after section 4 the following new section:~~

12 ~~“FOREIGN BOYCOTTS~~

13 ~~“SEC. 4A. (a) (1) For the purpose of implementing~~  
14 ~~the policies set forth in section 3 (5) (A) and (B), the~~  
15 ~~President shall issue rules and regulations prohibiting any~~  
16 ~~United States person from taking any of the following actions~~  
17 ~~with intent to comply with, further, or support any boycott~~  
18 ~~fostered or imposed by a foreign country against a country~~  
19 ~~which is friendly to the United States and which is not itself~~  
20 ~~the object of any form of embargo by the United States:~~

21 ~~“(A) Refraining from doing business with or in~~  
22 ~~the boycotted country, with any business concern orga-~~  
23 ~~nized under the laws of the boycotted country, or with~~  
24 ~~any national or resident of the boycotted country, pur-~~  
25 ~~suant to an agreement with, a requirement of, or a~~

1 ~~request from or on behalf of the boycotting country.~~

2 ~~The mere absence of a business relationship with or in~~

3 ~~the boycotted country, with any business concern orga-~~

4 ~~nized under the laws of the boycotted country, or with~~

5 ~~any national or resident of the boycotted country, does~~

6 ~~not indicate the existence of the intent required to~~

7 ~~establish a violation of rules and regulations issued~~

8 ~~to carry out this subparagraph.~~

9 ~~“(B) Refraining from doing business with any per-~~

10 ~~son (other than the boycotted country, any business con-~~

11 ~~cern organized under the laws of the boycotted country,~~

12 ~~or any national or resident of the boycotted country).~~

13 ~~The mere absence of a business relationship with a per-~~

14 ~~son does not indicate the presence of the intent required~~

15 ~~to establish a violation of rules and regulations issued to~~

16 ~~carry out this subparagraph.~~

17 ~~“(C) Refraining from employing or otherwise dis-~~

18 ~~criminating against any United States person on the~~

19 ~~basis of race, religion, nationality, or national origin.~~

20 ~~“(D) Furnishing information with respect to the~~

21 ~~race, religion, nationality, or national origin of any other~~

22 ~~United States person.~~

23 ~~“(E) Furnishing information about whether any~~

24 ~~person has, has had, or proposes to have any business~~

25 ~~relationship (including a relationship by way of sale,~~

~~1 purchase, legal or commercial representation, shipping~~  
~~2 or other transport, insurance, investment, or supply)~~  
~~3 with or in the boycotted country, with any business con-~~  
~~4 cern organized under the laws of the boycotted country,~~  
~~5 with any national or resident of the boycotted country,~~  
~~6 or with any other person which is known or believed~~  
~~7 to be restricted from having any business relationship~~  
~~8 with or in the boycotting country.~~

~~9 "(2) Rules and regulations issued pursuant to para-~~  
~~10 graph (1) shall provide exceptions for—~~

~~11 "(A) compliance with requirements (i) pro-~~  
~~12 hibiting the import of goods from the boycotted coun-~~  
~~13 try or of goods produced by any business concern~~  
~~14 organized under the laws of the boycotted country or~~  
~~15 by nationals or residents of the boycotted country, or~~  
~~16 (ii) prohibiting the shipment of goods to the bey-~~  
~~17 cotting country on a carrier of the boycotted country~~  
~~18 or by a route other than that prescribed by the boy-~~  
~~19 cotting country or the recipient of the shipment;~~

~~20 "(B) compliance with import and shipping docu-~~  
~~21 ment requirements with respect to country of origin,~~  
~~22 the name of the carrier and route of shipment, and~~  
~~23 the name of the supplier of the shipment;~~

~~24 "(C) compliance with export requirements of the~~  
~~25 boycotting country relating to transshipments of ex-~~



1     ~~ported goods to the boycotted country, to any business~~  
2     ~~concern organized under the laws of the boycotted~~  
3     ~~country, or to any national or resident of the boycotted~~  
4     ~~country;~~

5             ~~“(D) compliance by an individual with the im-~~  
6     ~~migration or passport requirements of any country; or~~

7             ~~“(E) the refusal of a United States person to pay,~~  
8     ~~honor, advise, confirm, process, or otherwise implement~~  
9     ~~a letter of credit in the event of the failure of the~~  
10    ~~beneficiary of the letter to comply with the conditions~~  
11    ~~or requirements of the letter, other than conditions or~~  
12    ~~requirements compliance with which is prohibited by~~  
13    ~~rules and regulations issued pursuant to paragraph (1)~~  
14    ~~which conditions or requirements shall be null and void.~~

15            ~~“(3) Nothing in this subsection may be construed to~~  
16    ~~supersede or limit the operation of the antitrust laws of the~~  
17    ~~United States.~~

18            ~~“(4) Rules and regulations pursuant to this subsection~~  
19    ~~and section 11 (2) shall be issued and become effective not~~  
20    ~~later than 90 days after the date of enactment of this section,~~  
21    ~~except that rules and regulations issued pursuant to this sub-~~  
22    ~~section shall apply to actions taken pursuant to contracts~~  
23    ~~or other agreements in effect on such date of enactment only~~  
24    ~~after the expiration of 90 days following the date such rules~~  
25    ~~and regulations become effective.~~

1       ~~“(b) (1) In addition to the rules and regulations issued~~  
2 ~~pursuant to subsection (a) of this section, rules and regula-~~  
3 ~~tions issued under section 4 (b) of this Act shall implement~~  
4 ~~the policies set forth in section 3 (5).~~

5       ~~“(2) Such rules and regulations shall require that any~~  
6 ~~United States person receiving a request for the furnishing~~  
7 ~~of information, the entering into or implementing of agree-~~  
8 ~~ments, or the taking of any other action referred to in sec-~~  
9 ~~tion 3 (5) shall report that fact to the Secretary of Com-~~  
10 ~~merce, together with such other information concerning such~~  
11 ~~request as the Secretary may require for such action as he~~  
12 ~~may deem appropriate for carrying out the policies of that~~  
13 ~~section. Such person shall also report to the Secretary of~~  
14 ~~Commerce whether he intends to comply and whether he~~  
15 ~~has complied with such request. Any report filed pursuant~~  
16 ~~to this paragraph after the date of enactment of this section~~  
17 ~~shall be made available promptly for public inspection and~~  
18 ~~copying, except that information regarding the quantity,~~  
19 ~~description, and value of any articles, materials, and sup-~~  
20 ~~plies, including technical data and other information, to~~  
21 ~~which such report relates may be kept confidential if the~~  
22 ~~Secretary determines that disclosure thereof would place the~~  
23 ~~United States person involved at a competitive disadvantage.~~  
24 ~~The Secretary of Commerce shall periodically transmit sum-~~  
25 ~~maries of the information contained in such reports to the~~

1 ~~Secretary of State for such action as the Secretary of State,~~  
 2 ~~in consultation with the Secretary of Commerce, may deem~~  
 3 ~~appropriate for carrying out the policies set forth in section~~  
 4 ~~3 (5) of this Act."~~

5 ~~(b) Section 4 (b) (1) of such Act is amended by strik-~~  
 6 ~~ing out the next to the last sentence.~~

7 ~~(c) Section 7 (c) of such Act is amended by striking~~  
 8 ~~out "No" and inserting in lieu thereof "Except as otherwise~~  
 9 ~~provided by the third sentence of section 4A (b) (2) and~~  
 10 ~~by section 6 (c) (2) (C) of this Act, no".~~

#### 11 ~~STATEMENT OF POLICY~~

12 ~~SEC. 202. (a) Section 3 (5) (A) of the Export Admin-~~  
 13 ~~istration Act of 1969 is amended by inserting immediately~~  
 14 ~~after "United States" the following: "or against any United~~  
 15 ~~States person".~~

16 ~~(b) Section 3 (5) (B) of such Act is amended to read~~  
 17 ~~as follows: "(B) to encourage and, in specified cases, to~~  
 18 ~~require United States persons engaged in the export of~~  
 19 ~~articles, materials, supplies, or information to refuse to take~~  
 20 ~~actions, including furnishing information or entering into or~~  
 21 ~~implementing agreements, which have the effect of further-~~  
 22 ~~ing or supporting the restrictive trade practices or boycotts~~  
 23 ~~fostered or imposed by any foreign country against a country~~  
 24 ~~friendly to the United States or against any United States~~  
 25 ~~person,".~~

## ~~ENFORCEMENT~~

~~SEC. 203. (a) Section 6 (c) of the Export Administra-~~  
~~tion Act of 1969 is amended—~~

~~(A) by redesignating such section as section 6~~  
~~(e) (1); and~~

6           ~~(B) by adding at the end thereof the following~~  
7           ~~new paragraph:~~

~~"(2) (A) The authority of this Act to suspend or~~  
~~revoke the authority of any United States person to export~~  
~~articles, materials, supplies, or technical data or other in-~~  
~~formation, from the United States, its territories or posses-~~  
~~sions, may be used with respect to any violation of the rules~~  
~~and regulations issued pursuant to section 4A (a) of this~~  
~~Act.~~

~~“(B) Any sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the rules and regulations issued pursuant to section 4A (a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.~~

~~“(C) Any charging letter or other document initiating~~  
~~proceedings for the imposition of sanctions for violations of~~

1 ~~the rules and regulations issued pursuant to section 4A (a)~~  
 2 ~~of this Act shall be made available for public inspection and~~  
 3 ~~copying.”.~~

4 ~~(b) Section 8 of such Act is amended by striking out~~  
 5 ~~“The” and inserting in lieu thereof “Except as provided in~~  
 6 ~~section 6 (c) (2), the”.~~

7 ~~DEFINITIONS~~

8 ~~SEC. 204. Section 11 of the Export Administration Act~~  
 9 ~~of 1969 is amended to read as follows:~~

10 ~~“DEFINITIONS~~

11 ~~“SEC. 11. As used in this Act—~~

12 ~~“(1) the term ‘person’ includes the singular and~~  
 13 ~~the plural and any individual, partnership, corporation,~~  
 14 ~~or other form of association, including any government~~  
 15 ~~or agency thereof; and~~

16 ~~“(2) the term ‘United States person’ includes any~~  
 17 ~~United States resident or national, any domestic con-~~  
 18 ~~cern (including any subsidiary or affiliate of any foreign~~  
 19 ~~concern with respect to its activities in the United~~  
 20 ~~States), and any foreign subsidiary or affiliate of any~~  
 21 ~~domestic concern which is controlled in fact by such~~  
 22 ~~domestic concern, as determined under regulations of~~  
 23 ~~the President.”.~~

1 ~~TITLE III—EXPORTS OF NUCLEAR MATERIAL~~  
2 ~~AND TECHNOLOGY~~

3 ~~NUCLEAR EXPORTS~~

4 ~~Sec. 301. The Export Administration Act of 1969 is~~  
5 ~~amended by adding at the end thereof the following new sec-~~  
6 ~~tion:~~

7 ~~“NUCLEAR EXPORTS~~

8 ~~“SEC. 16. (a) (1) The Congress finds that the export~~  
9 ~~by the United States of nuclear material, equipment, and~~  
10 ~~devices, if not properly regulated, could allow countries to~~  
11 ~~come unacceptably close to a nuclear weapon capability,~~  
12 ~~thereby adversely affecting international stability, the foreign~~  
13 ~~policy objectives of the United States, and undermining the~~  
14 ~~principle of nuclear nonproliferation agreed to by the United~~  
15 ~~States as a signatory to the Treaty on the Non-Proliferation~~  
16 ~~of Nuclear Weapons.~~

17 ~~“(2) The Congress finds that nuclear export activities~~  
18 ~~which enable countries to possess strategically significant~~  
19 ~~quantities of unirradiated, readily fissionable material are~~  
20 ~~inherently unsafe.~~

21 ~~“(3) It is, therefore, the purpose of this section to~~  
22 ~~implement the policies stated in paragraphs (1) and (2)~~  
23 ~~of section 3 of this Act by regulating the export of nuclear~~  
24 ~~material, equipment, and devices which could prove detri-~~

1 ~~mental to United States national security and foreign policy~~  
2 ~~objectives.~~

3       ~~“(b) (1) No agreement for cooperation providing for~~  
4 ~~the export of any nuclear material, equipment, or devices for~~  
5 ~~civil uses may be entered into with any foreign country,~~  
6 ~~group of countries, or international organization, and no~~  
7 ~~amendment to or renewal of any such agreement may be~~  
8 ~~agreed to, unless—~~

9           ~~“(A) the provisions of the agreement concerning~~  
10 ~~the reprocessing of special nuclear material supplied by~~  
11 ~~the United States will apply equally to all special nuclear~~  
12 ~~material produced through the use of any nuclear reactor~~  
13 ~~transferred under such agreement; and~~

14           ~~“(B) the recipient country, group of countries, or~~  
15 ~~international organization, has agreed to permit the~~  
16 ~~International Atomic Energy Agency to report to the~~  
17 ~~United States, upon a request by the United States, on~~  
18 ~~the status of all inventories of plutonium, uranium 233,~~  
19 ~~and highly enriched uranium possessed by that country,~~  
20 ~~group of countries, or international organization and~~  
21 ~~subject to International Atomic Energy Agency safe-~~  
22 ~~guards.~~

23       ~~“(2) (A) The Secretary of State shall undertake con-~~  
24 ~~sultations with all parties to agreements for cooperation~~

1 ~~existing on the date of enactment of this section in order~~  
2 ~~to seek inclusion in such agreements of the provisions de-~~  
3 ~~scribed in paragraph (1) (A) and (1) (B) of this sub-~~  
4 ~~section.~~

5       ~~“(B) The Secretary of State shall seek to acquire,~~  
6 ~~from any party to an agreement for cooperation who is~~  
7 ~~not a nuclear weapons State (as defined in article IX (3)~~  
8 ~~of the Treaty on the Non-Proliferation of Nuclear Weap-~~  
9 ~~ons), periodic reports on the status of all inventories of~~  
10 ~~plutonium, U-233, and highly enriched uranium possessed~~  
11 ~~by that party which are not subject to International Atomic~~  
12 ~~Energy Agency safeguards.~~

13       ~~“(3) (A) No license may be issued for the export of~~  
14 ~~any nuclear material, equipment, or devices pursuant to an~~  
15 ~~agreement for cooperation unless the recipient country,~~  
16 ~~group of countries, or international organization, has agreed~~  
17 ~~that the material, equipment, and devices subject to that~~  
18 ~~agreement will not be used for any nuclear explosive device,~~  
19 ~~regardless of how the device itself is intended to be used.~~

20       ~~“(B) Subparagraph (A) of this paragraph shall take~~  
21 ~~effect at the end of the 1-year period beginning on the date~~  
22 ~~of enactment of this section.~~

23       ~~“(4) In any case in which a party to any agreement~~  
24 ~~for cooperation seeks to reprocess special nuclear material~~  
25 ~~produced through the use of any nuclear material, equipment,~~



~~or devices supplied by the United States, the Secretary of~~  
~~State may only determine that safeguards can be applied~~  
~~effectively to such reprocessing if he finds that the reliable~~  
~~detection of any diversion and the timely warning to the~~  
~~United States of such diversion will occur well in advance~~  
~~of the time at which that party could transform strategic~~  
~~quantities of diverted nuclear material into explosive nuclear~~  
~~devices.”.~~

~~INTERNATIONAL AGREEMENT ON NUCLEAR EXPORTS~~

~~SEC. 302. (a) It is the sense of the Congress that the~~  
~~President should actively seek, and by the earliest possible~~  
~~date secure, an agreement or other arrangement under~~  
~~which—~~

~~(A) nuclear exporting nations will not transfer to~~  
~~any other nation any equipment, material, or tech-~~  
~~nology designed or prepared for, or which would mate-~~  
~~rially assist the establishment of, national uranium~~  
~~enrichment, nuclear fuels reprocessing, or heavy water~~  
~~production facilities until and while alternatives to such~~  
~~national facilities are explored and pursued;~~

~~(B) nuclear exporting nations will not transfer any~~  
~~nuclear equipment, material, or technology to any other~~  
~~nation that has not agreed to implement safeguards pro-~~  
~~mulgated by the International Atomic Energy Agency;~~

~~(C) minimum physical security standards are~~

1 ~~established to prevent the unauthorized diversion of~~  
2 ~~nuclear equipment, materials, and technology;~~

3 ~~(D) arrangements are established for effective and~~  
4 ~~prompt responses in the event of violations of any inter-~~  
5 ~~national agreement to control the use of nuclear mate-~~  
6 ~~rials and technology;~~

7 ~~(E) nuclear exporting nations, in cooperation with~~  
8 ~~nuclear importing nations, pursue the concept of multi-~~  
9 ~~national facilities for the purpose of meeting the world's~~  
10 ~~nuclear fuel needs while reducing the risks associated~~  
11 ~~with the spread of national facilities for fuel reprocessing,~~  
12 ~~fabrication, and enrichment; and~~

13 ~~(F) nuclear exporting nations establish arrange-~~  
14 ~~ments for appropriate response, including the suspen-~~  
15 ~~sion of transfers of nuclear equipment, material, or tech-~~  
16 ~~nology, to any non-nuclear weapons country which has~~  
17 ~~detonated a nuclear explosive device or which has clearly~~  
18 ~~demonstrated the intention to embark upon a nuclear~~  
19 ~~weapons program.~~

20 ~~Within 1 year after the date of enactment of this Act,~~  
21 ~~the President shall report to the Congress on the progress~~  
22 ~~made toward the achievement of international agreement~~  
23 ~~or other arrangements on the matters specified in this~~  
24 ~~section.~~

1     ~~(b) For purposes of this section, the term "nuclear~~  
 2     ~~exporting nations" means the United States, the United~~  
 3     ~~Kingdom, France, the Federal Republic of Germany, Can-~~  
 4     ~~ada, Japan, the Union of Soviet Socialist Republics, and~~  
 5     ~~such other countries as the President may determine.~~

6             ~~EXPORTS OF NUCLEAR TECHNOLOGY~~

7     ~~SEC. 303. Section 4 (j) of the Export Administration~~  
 8     ~~Act of 1969, as added by section 107 of this Act, is amended~~  
 9     ~~by adding at the end thereof the following new paragraph:~~

10       ~~"(3) The President shall conduct an in depth study of~~  
 11     ~~whether, or the extent to which, the education and training~~  
 12     ~~of foreign nationals within the United States in nuclear engi-~~  
 13     ~~neering and related fields contributes to the proliferation of~~  
 14     ~~explosive nuclear devices or the development of a capability~~  
 15     ~~of producing explosive nuclear devices. Not later than the end~~  
 16     ~~of the 6 month period beginning on the date of enactment of~~  
 17     ~~this paragraph, the President shall submit to the Congress a~~  
 18     ~~detailed report containing the findings and conclusions of such~~  
 19     ~~study. Such report shall analyze the direct and indirect contri-~~  
 20     ~~bution of such education and training to nuclear proliferation."~~

21             ~~NUCLEAR POWERPLANTS~~

22     ~~SEC. 304. None of the funds authorized by the Foreign~~  
 23     ~~Assistance Act of 1961 may be used to finance the construc-~~  
 24     ~~tion of, the operation or maintenance of, or the supply of~~

1 ~~fuel for, any nuclear powerplant under an agreement for~~  
2 ~~cooperation between the United States and any other~~  
3 ~~country.~~

4 *SHORT TITLE*

5 *SECTION 1. This Act may be cited as the "Export Ad-*  
6 *ministration Amendments of 1977".*

7 *TITLE I—EXPORT ADMINISTRATION*

8 *IMPROVEMENTS AND EXTENSION*

9 *EXTENSION OF EXPORT ADMINISTRATION ACT*

10 *SEC. 101. Section 14 of the Export Administration Act*  
11 *of 1969 is amended by striking out "September 30, 1976"*  
12 *and inserting in lieu thereof "September 30, 1979".*

13 *AUTHORIZATION OF APPROPRIATIONS*

14 *SEC. 102. The Export Administration Act of 1969 is*  
15 *amended by inserting after section 12 the following new sec-*  
16 *tion 13 and redesignating sections 13 and 14 as sections 14*  
17 *and 15, respectively:*

18 *"AUTHORIZATION OF APPROPRIATIONS*

19 *"SEC. 13. Notwithstanding any other provision of law,*  
20 *no appropriation shall be made under any law to the Depart-*  
21 *ment of Commerce for expenses to carry out the purposes of*  
22 *this Act for any fiscal year commencing on or after October*  
23 *1, 1977, unless previously and specifically authorized by*  
24 *legislation enacted after the enactment of this section."*

1     *CONTROL OF EXPORTS FOR NATIONAL SECURITY PUR-*  
2                     *POSES; FOREIGN AVAILABILITY*

3         *SEC. 103. (a) Section 4(b) of the Export Administra-*  
4     *tion Act of 1969 is amended—*

5             *(1) by striking out the third sentence of paragraph*  
6     *(1);*

7             *(2) by striking out paragraphs (2) through (4);*  
8     *and*

9             *(3) by inserting the following new paragraph (2):*

10         *“(2)(A) In administering export controls for national*  
11     *security purposes as prescribed in section 3(2)(C) of this*  
12     *Act, United States policy toward individual countries shall*  
13     *not to be determined exclusively on the basis of a country’s*  
14     *Communist or non-Communist status but shall take into ac-*  
15     *count such factors as the country’s present and potential re-*  
16     *lationship to the United States, its present and potential*  
17     *relationship to countries friendly or hostile to the United*  
18     *States, its ability and willingness to control retransfers of*  
19     *United States exports in accordance with United States*  
20     *policy, and such other factors as the President may deem*  
21     *appropriate. The President shall periodically review United*  
22     *States policy toward individual countries to determine*  
23     *whether such policy is appropriate in light of the factors*  
24     *specified in the preceding sentence. The results of such*

1 review, together with the justification for United States pol-  
2 icy in light of such factors, shall be included in the second  
3 semiannual report of the Secretary of Commerce required  
4 by section 10 of this Act following the date of enactment  
5 of the Export Administration Amendments of 1977 and in  
6 every second such report thereafter.

7       “(B) Rules and regulations under this subsection may  
8 provide for denial of any request or application for author-  
9 ity to export articles, materials, or supplies, including techni-  
10 cal data, or any other information, from the United States,  
11 its territories, and possessions, to any nation or combination  
12 of nations threatening the national security of the United  
13 States if the President determines that their export would  
14 prove detrimental to the national security of the United  
15 States. The President shall not impose export controls for  
16 national security purposes on the export from the United  
17 States of articles, materials, or supplies, including technical  
18 data or other information, which he determines are available  
19 without restriction from sources outside the United States  
20 in significant quantities and comparable in quality to those  
21 produced in the United States, unless the President deter-  
22 mines that adequate evidence has been presented to him  
23 demonstrating that the absence of such controls would prove  
24 detrimental to the national security of the United States.  
25 The nature of such evidence shall be included in the semi-  
26 annual report required by section 10 of this Act. Where, in

1 accordance with this paragraph, export controls are im-  
2 posed for national security purposes notwithstanding foreign  
3 availability, the President shall take steps to initiate negoti-  
4 ations with the governments of the appropriate foreign coun-  
5 tries for the purpose of eliminating such availability.”.

6 (b)(1) Section 4(h) of the Export Administration Act  
7 of 1969 is amended by striking out “controlled country” in  
8 the first sentence of paragraph (1) and in the second sen-  
9 tence of paragraph (2) and inserting in lieu thereof “coun-  
10 try to which exports are restricted for national security  
11 purposes”.

12 (2) Section 4(h)(2)(A) of such Act is amended by  
13 striking out “controlled” and inserting in lieu thereof “such”.

14 (3) Section 4(h)(4) of such Act is amended—

15 (A) by inserting “and” at the end of subpara-  
16 graph (A); and

17 (B) by striking out the semicolon at the end of  
18 subparagraph (B) thereof and all that follows the semi-  
19 colon and inserting in lieu thereof a period.

20 (4) The amendments made by this subsection shall be-  
21 come effective upon the expiration of 90 days after the  
22 receipt by the Congress of the second semiannual report of  
23 the Secretary of Commerce required by section 10 of such  
24 Act following enactment of the Export Administration  
25 Amendments of 1977.

1       (c) *Section 4(h) of such Act is amended—*

2             (1) *in paragraph (1)—*

3                 (A) *in the first sentence by striking out “sig-*  
4                 *nificantly increase the military capability of such*  
5                 *country” and inserting in lieu thereof “make a*  
6                 *significant contribution to the military potential of*  
7                 *such country”; and*

8                 (B) *in the second sentence by striking out*  
9                 *“significantly increase the military capability of such*  
10                *country” and inserting in lieu thereof “make a*  
11                *significant contribution, which would prove detri-*  
12                *mental to the national security of the United States,*  
13                *to the military potential of such country”; and*

14               (2) *in paragraph (2)(A), by striking out “sig-*  
15                *nificantly increase the military capability of such coun-*  
16                *try” and inserting in lieu thereof “make a significant*  
17                *contribution, which would prove detrimental to the*  
18                *national security of the United States, to the military*  
19                *potential of such country or any other country”.*

20       (d) *Section 6(b) of such Act is amended by striking*  
21 *out “Communist-dominated nation” and inserting in lieu*  
22 *thereof “country to which exports are restricted for na-*  
23 *tional security or foreign policy purposes”.*



1    *EXEMPTION FOR CERTAIN AGRICULTURAL COMMODITIES*

2                    *FROM CERTAIN EXPORT LIMITATIONS*

3        *SEC. 104. Section 4(f) of the Export Administration*  
4 *Act of 1969 is amended—*

5            *(1) by redesignating such section as section 4(f)*

6            *(1); and*

7            *(2) by adding at the end thereof the following new*  
8 *paragraph:*

9        *“(2) Upon approval of the Secretary of Commerce, in*  
10 *consultation with the Secretary of Agriculture, agricultural*  
11 *commodities purchased by or for use in a foreign country*  
12 *may remain in the United States for export at a later date*  
13 *free from any quantitative limitations on export which may*  
14 *be imposed pursuant to section 3(2)(A) of this Act sub-*  
15 *sequent to such approval. The Secretary of Commerce may*  
16 *not grant approval hereunder unless he receives adequate*  
17 *assurance and, in conjunction with the Secretary of Agri-*  
18 *culture, finds that such commodities will eventually be ex-*  
19 *ported, that neither the sale nor export thereof will result*  
20 *in an excessive drain of scarce materials and have a serious*  
21 *domestic inflationary impact, that storage of such commodities*  
22 *in the United States will not unduly limit the space available*  
23 *for storage of domestically owned commodities, and that the*

1 *purpose of such storage is to establish a reserve of such com-*  
2 *modities for later use, not including resale to or use by*  
3 *another country. The Secretary of Commerce is authorized*  
4 *to issue such rules and regulations as may be necessary to*  
5 *implement this paragraph.”.*

6       *CONGRESSIONAL REVIEW OF EXPORT CONTROLS ON*  
7               *AGRICULTURAL COMMODITIES*

8       *SEC. 105. Section 4(f) of the Export Administration*  
9 *Act of 1969, as amended by section 104 of this Act, is*  
10 *further amended by adding at the end thereof the following*  
11 *new paragraph:*

12       *“(3) If the authority conferred by this section is exer-*  
13 *cised to prohibit or curtail the exportation of any agricul-*  
14 *tural commodity in order to effectuate the policies set forth*  
15 *in clause (B) of paragraph (2) of section 3 of this Act, the*  
16 *President shall immediately report such prohibition or cur-*  
17 *tailment to the Congress, setting forth the reasons therefor*  
18 *in detail. If the Congress, within 30 days after the date of its*  
19 *receipt of such report, adopts a concurrent resolution disap-*  
20 *proving such prohibition or curtailment, then such prohibi-*  
21 *tion or curtailment shall cease to be effective with the adop-*  
22 *tion of such resolution. In the computation of such 30-day*  
23 *period, there shall be excluded the days on which either*  
24 *House is not in session because of an adjournment of more*

1 *than 3 days to a day certain or because of an adjournment*  
2 *of the Congress sine die.”.*

3 *PERIOD FOR ACTION ON EXPORT LICENSE APPLICATIONS*

4 *SEC. 106. Section 4(g) of the Export Administration*  
5 *Act of 1969 is amended to read as follows:*

6 *“(g)(1) It is the intent of Congress that any export*  
7 *license application required under this Act shall be approved*  
8 *or disapproved within 90 days of its receipt. Upon the ex-*  
9 *piration of the 90-day period beginning on the date of its*  
10 *receipt, any export license application required under this*  
11 *Act which has not been approved or disapproved shall be*  
12 *deemed to be approved and the license shall be issued unless*  
13 *the Secretary of Commerce or other official exercising au-*  
14 *thority under this Act finds that additional time is required*  
15 *and notifies the applicant in writing of the specific circum-*  
16 *stances requiring such additional time and the estimated date*  
17 *when the decision will be made.*

18 *“(2)(A) With respect to any export license applica-*  
19 *tion not finally approved or disapproved within 90 days of*  
20 *its receipt as provided in paragraph (1) of this subsection,*  
21 *the applicant shall, to the maximum extent consistent with*  
22 *the national security of the United States, be specifically in-*  
23 *formed in writing of questions raised and negative considera-*  
24 *tions or recommendations made by any agency or depart-*

1 *ment of the Government with respect to such license appli-*  
2 *cation, and shall be accorded an opportunity to respond to*  
3 *such questions, considerations, or recommendations in writ-*  
4 *ing prior to final approval or disapproval by the Secretary*  
5 *of Commerce or other official exercising authority under this*  
6 *Act. In making such final approval or disapproval, the Sec-*  
7 *retary of Commerce or other official exercising authority*  
8 *under this Act shall take fully into account the applicant's*  
9 *response.*

10       “(B) Whenever the Secretary determines that it is  
11 necessary to refer an export license application to any  
12 interagency review process for approval, he shall first,  
13 if the applicant so requests, provide the applicant with an  
14 opportunity to review any documentation to be submitted  
15 to such process for the purpose of describing the export in  
16 question, in order to determine whether such documentation  
17 accurately describes the proposed export.

18       “(3) In any denial of an export license application, the  
19 applicant shall be informed in writing of the specific statu-  
20 tory basis for such denial.”.

21                               **EXPORT OF HORSES**

22       **SEC. 107.** *Section 4 of the Export Administration Act*  
23 *of 1969 is amended by adding at the end thereof the following*  
24 *new subsection:*

25       “(j) (1) Notwithstanding any other provision of this Act,

1 *no horse may be exported by sea from the United States, its*  
2 *territories and possessions, unless such horse is part of a*  
3 *consignment of horses with respect to which a waiver has been*  
4 *granted under paragraph (2) of this subsection.*

5       *“(2) The Secretary of Commerce, in consultation with*  
6 *the Secretary of Agriculture, may issue rules and regula-*  
7 *tions providing for the granting of waivers permitting the*  
8 *export by sea of a specified consignment of horses, if the*  
9 *Secretary of Commerce, in consultation with the Secretary*  
10 *of Agriculture, determines that no horse in that consignment*  
11 *is being exported for purposes of slaughter.”.*

12                   **TECHNICAL ADVISORY COMMITTEES**

13       *SEC. 108. (a) Section 5(c)(1) of the Export Admin-*  
14 *istration Act of 1969 is amended by striking out “two” in*  
15 *the last sentence thereof and inserting in lieu thereof “four”.*

16       *(b) The second sentence of section 5(c)(2) of such*  
17 *Act is amended to read as follows: “Such committees, where*  
18 *they have expertise in such matters, shall be consulted with*  
19 *respect to questions involving (A) technical matters, (B)*  
20 *worldwide availability and actual utilization of production*  
21 *technology, (C) licensing procedures which affect the level*  
22 *of export controls applicable to any articles, materials, and*  
23 *supplies, including technical data or other information, and*  
24 *(D) exports subject to multilateral controls in which the*  
25 *United States participates including proposed revisions of*

1 any such multilateral controls. Such committees shall be  
2 informed of the reasons for the failure to accept any advice  
3 or recommendation which such committees have rendered or  
4 made to any officer or agency of the United States  
5 Government.”.

6 (c) Section 5(c)(2) of such Act is further amended  
7 by striking out the third sentence and inserting in lieu thereof  
8 the following: “The Secretary shall include in each semi-  
9 annual report required by section 10 of this Act an account-  
10 ing of the consultations undertaken pursuant to this para-  
11 graph, the use made of the advice rendered by the technical  
12 advisory committees pursuant to this paragraph, and the  
13 contributions of the technical advisory committees to carrying  
14 out the policies of this Act.”.

15 **PENALTIES FOR VIOLATIONS**

16 **SEC. 109.** (a) Section 6(a) of the Export Administra-  
17 tion Act of 1969 is amended—

18 (1) in the first sentence, by striking out “\$10,000”  
19 and inserting in lieu thereof “\$25,000”; and

20 (2) in the second sentence, by striking out  
21 “\$20,000” and inserting in lieu thereof “\$50,000”.

22 (b) Section 6(b) of such Act is amended by striking  
23 out “\$20,000” and inserting in lieu thereof “\$50,000”.

24 (c) Section 6(c) of such Act is amended by striking  
25 out “\$1,000” and inserting in lieu thereof “\$10,000”.

1       (d) Section 6(d) of such Act is amended by adding at  
2 the end thereof the following new sentence: "In addition,  
3 the payment of any penalty imposed under subsection (c)  
4 may be deferred or suspended in whole or in part for a  
5 period of time no longer than any probation period (which  
6 may exceed one year) that may be imposed upon such person.  
7 Such a deferral or suspension shall not operate as a bar to  
8 the collection of the penalty in the event that the conditions  
9 of the suspension, deferral, or probation are not fulfilled."

10       AVAILABILITY OF INFORMATION TO CONGRESS

11       SEC. 110. (a) Section 7(c) of the Export Administra-  
12 tion Act of 1969 is amended by adding at the end thereof  
13 the following new sentence: "Nothing in this Act shall be  
14 construed as authorizing the withholding of information  
15 from any committee of the Congress having appropriate  
16 jurisdiction upon the request of the Chairman of such com-  
17 mittee. Such information shall be accorded confidential treat-  
18 ment by the committee and may be disclosed only upon a  
19 determination by the committee that the withholding thereof  
20 is contrary to the national interest."

21       (b) Section 4(c)(1) of such Act is amended by insert-  
22 ing immediately before the period at the end of the last sen-  
23 tence thereof "and in the last sentence of section 7(c) of  
24 this Act".

## 1     SIMPLIFICATION OF EXPORT REGULATIONS AND LISTS

2         *SEC. 111. Section 7 of the Export Administration Act*  
3     *of 1969 is amended by adding at the end thereof the following*  
4     *new subsection:*

5         *“(e) The Secretary of Commerce, in consultation with*  
6     *appropriate United States Government departments and*  
7     *agencies and with appropriate technical advisory committees*  
8     *established under section 5(c), shall review the rules and*  
9     *regulations issued under this Act and the lists of articles, ma-*  
10    *terials, and supplies which are subject to export controls in*  
11    *order to determine how compliance with the provisions of*  
12    *this Act can be facilitated by simplifying such rules and*  
13    *regulations, by simplifying or clarifying such lists, or by any*  
14    *other means. Not later than 1 year after the enactment of*  
15    *this subsection, the Secretary of Commerce shall report to*  
16    *Congress on the actions taken on the basis of such review to*  
17    *simplify such rules and regulations. Such report may be in-*  
18    *cluded in the semiannual report required by section 10 of*  
19    *this Act.”.*

20

## TERRORISM

21         *SEC. 112. Section 3 of the Export Administration*  
22    *Act of 1969 is amended by adding at the end thereof the*  
23    *following:*

24         *“(8) It is the policy of the United States to use export*  
25    *controls to encourage other countries to take immediate*



1 steps to prevent the use of their territory or resources to aid,  
 2 encourage, or give sanctuary to those persons involved in  
 3 directing, supporting, or participating in acts of interna-  
 4 tional terrorism. To achieve this objective, the President  
 5 shall make every reasonable effort to secure the removal  
 6 or reduction of such assistance to international terrorists  
 7 through international cooperation and agreement before  
 8 resorting to the imposition of export controls.”.

#### 9 SEMIANNUAL REPORTS

10 SEC. 113. (a) Section 10 of the Export Administra-  
 11 tion Act of 1969 is amended by adding at the end thereof  
 12 the following new subsection (c):

13 “(c) Each semiannual report shall include an account-  
 14 ing of—

15 “(1) any organizational and procedural changes  
 16 instituted, any reviews undertaken, and any means used  
 17 to keep the business sector of the Nation informed, pur-  
 18 suant to section 4(a) of this Act;

19 “(2) any changes in the exercise of the authorities  
 20 of section 4(b) of this Act;

21 “(3) any delegations of authority under section  
 22 4(e) of this Act;

23 “(4) the disposition of export license applications  
 24 pursuant to section 4 (g) and (h) of this Act;

1           “(5) consultations undertaken with technical ad-  
2       visory committees pursuant to section 5(c) of this Act;

3           “(6) violations of the provisions of this Act and  
4       penalties imposed pursuant to section 6 of this Act;  
5       and

6           “(7) a description of actions taken by the President  
7       and the Secretary of Commerce to effect the policies set  
8       forth in section 3(5) of this Act.”.

9       (b)(1) The section heading of such section 10 is  
10   amended by striking out “QUARTERLY”.

11       (2) Subsection (b) of such section is amended—

12           (A) by striking out “quarterly” each time it ap-  
13       pears; and

14           (B) by striking out “second” in the first sentence  
15       of paragraph (1).

16   SPECIAL REPORT ON MULTILATERAL EXPORT CONTROLS

17       SEC. 114. Not later than 12 months after the enact-  
18   ment of this section, the President shall submit to the Con-  
19   gress a special report on multilateral export controls in which  
20   the United States participates pursuant to the Export Admin-  
21   istration Act of 1969 and pursuant to the Mutual Defense  
22   Assistance Control Act of 1951. The purpose of such spe-  
23   cial report shall be to assess the effectiveness of such multi-  
24   lateral export controls and to formulate specific proposals

1 *for increasing the effectiveness of such controls. That special*  
2 *report shall include—*

3       *(1) the current list of commodities controlled for*  
4 *export by agreement of the group known as the Coordi-*  
5 *nating Committee of the Consultative Group (hereafter*  
6 *in this section referred to as the “Committee”) and an*  
7 *analysis of the process of reviewing such list and of the*  
8 *changes which result from such review;*

9       *(2) data on and analysis of requests for exceptions*  
10 *to such list;*

11       *(3) a description and an analysis of the process*  
12 *by which decisions are made by the Committee on*  
13 *whether or not to grant such requests;*

14       *(4) an analysis of the uniformity of interpreta-*  
15 *tion and enforcement by the participating countries of*  
16 *the export controls agreed to by the Committee (in-*  
17 *cluding controls over the reexport of such commodities*  
18 *from countries not participating in the Committee),*  
19 *and information on each case where such participating*  
20 *countries have acted contrary to the United States inter-*  
21 *pretation of the policy of the Committee, including*  
22 *United States representations to such countries and the*  
23 *response of such countries;*

24       *(5) an analysis of the problem of exports of ad-*

1     *vanced technology by countries not participating in the*  
 2     *Committee, including such exports by subsidiaries or*  
 3     *affiliates of United States businesses in such countries;*

4             *(6) an analysis of the effectiveness of any pro-*  
 5     *cedures employed in cases in which an exception for*  
 6     *a listed commodity is granted by the Committee, to de-*  
 7     *termine whether there has been compliance with any*  
 8     *conditions on the use of the excepted commodity which*  
 9     *were a basis for the exception; and*

10            *(7) detailed recommendations for improving,*  
 11     *through formalization or other means, the effectiveness*  
 12     *of multilateral export controls, including specific recom-*  
 13     *mendations for the development of more precise criteria*  
 14     *and procedures for collective export decisions and for the*  
 15     *development of more detailed and formal enforcement*  
 16     *mechanisms to assure more uniform interpretation of and*  
 17     *compliance with such criteria, procedures, and decisions*  
 18     *by all countries participating in such multilateral export*  
 19     *controls.*

20     **REVIEW OF UNILATERAL AND MULTILATERAL EXPORT**  
 21                             **CONTROLS**

22     *SEC. 115. The Secretary of Commerce, in coopera-*  
 23     *tion with appropriate United States Government depart-*  
 24     *ments and agencies and the appropriate technical advisory*  
 25     *committees established pursuant to the Export Administration*

1 *Act of 1969, shall undertake an investigation to determine*  
2 *whether United States unilateral controls or multilateral*  
3 *controls in which the United States participates should be re-*  
4 *moved, modified, or added with respect to particular articles,*  
5 *materials, and supplies, including technical data and other*  
6 *information, in order to protect the national security of the*  
7 *United States. Such investigation shall take into account*  
8 *such factors as the availability of such articles, materials, and*  
9 *supplies from other nations and the degree to which the avail-*  
10 *ability of the same from the United States or from any coun-*  
11 *try with which the United States participates in multilateral*  
12 *controls would make a significant contribution to the mili-*  
13 *tary potential of any country threatening or potentially*  
14 *threatening the national security of the United States. The*  
15 *results of such investigation shall be reported to the Congress*  
16 *not later than 12 months after the completion of the first*  
17 *revision, after the date of enactment of this Act, of the list*  
18 *of items controlled or export by agreement of the Coordinating*  
19 *Committee of the Consultative Group.*

20 **REPORT ON TECHNICAL DATA TRANSFERS**

21 *SEC. 116. The Secretary of Commerce shall conduct a*  
22 *study of the transfer of technical data and other information*  
23 *to any country to which exports are restricted for national*  
24 *security purposes and the problem of the export, by publica-*  
25 *tions or any other means of public dissemination, of technical*

1 data or other information from the United States, the export  
2 of which might prove detrimental to the national security or  
3 foreign policy of the United States. Not later than 6 months  
4 after the enactment of this section, the Secretary shall report  
5 to the Congress his assessment of the impact of the export of  
6 such technical data or other information by such means on  
7 the national security and foreign policy of the United States  
8 and his recommendations for monitoring such exports without  
9 impairing freedom of speech, freedom of press, or the free-  
10 dom of scientific exchange. Such report may be included in  
11 the semiannual report required by section 10 of the Export  
12 Administration Act of 1969.

13 *SUNSHINE IN GOVERNMENT*

14 *SEC. 117. (a) Each officer or employee of the Depart-*  
15 *ment of Commerce who—*

16 *(1) performs any function or duty under this Act*  
17 *or the Export Administration Act of 1969; and*

18 *(2) has any known financial interest in any person*  
19 *subject to such Acts, or in any person who obtains any*  
20 *license, enters into any agreement, or otherwise receives*  
21 *any benefit under such Acts;*

22 *shall, beginning on February 1, 1978, annually file with*  
23 *the Secretary of Commerce a written statement concerning*  
24 *all such interests held by such officer or employee during the*

1 preceding calendar year. Such statement shall be available  
2 to the public.

3 (b) The Secretary of Commerce shall—

4 (1) within 90 days after the date of enactment of  
5 this Act—

6 (A) define the term “known financial interest”  
7 for purposes of subsection (a) of this section; and

8 (B) establish the methods by which the require-  
9 ment to file written statements specified in sub-  
10 section (a) of this section will be monitored and  
11 enforced, including appropriate provisions for the  
12 filing by such officers and employees of such state-  
13 ments and the review by the Secretary of such  
14 statements; and

15 (2) report to the Congress on June 1 of each calen-  
16 dar year with respect to such disclosures and the ac-  
17 tions taken in regard thereto during the preceding  
18 calendar year.

19 (c) In the rules prescribed under subsection (b) of  
20 this section, the Secretary may identify specific positions  
21 within the Department of Commerce which are of a non-  
22 regulatory or nonpolicymaking nature and provide that of-  
23 ficers or employees occupying such positions shall be exempt  
24 from the requirements of this section.

1        (d) Any officer or employee who is subject to, and  
2 knowingly violates, this section or any regulation issued  
3 hereunder, shall be fined not more than \$2,500 or im-  
4 prisoned not more than 1 year, or both.

5     *MONITORING OF COMMODITIES IN POTENTIAL SHORT*  
6                     *SUPPLY*

7        *SEC. 118. Section 4(c)(1) of the Export Administration*  
8        *Act of 1961 is amended by inserting after the first sentence*  
9        *thereof the following: "Such monitoring shall commence at a*  
10       *time adequate to insure that data will be available which is*  
11       *sufficient to permit achievement of the policies of this Act."*.

12 *TITLE II—FOREIGN BOYCOTTS*

**13 PROHIBITION ON COMPLIANCE WITH FOREIGN BOYCOTTS**

SEC. 201. (a) *The Export Administration Act of 1969*  
is amended by redesignating section 4A as section 4B and  
by inserting after section 4 the following new section:

17 *“FOREIGN BOYCOTTS*

18           “SEC. 4A. (a)(1) For the purpose of implementing  
19 the policies set forth in section 3(5) (A) and (B), the  
20 President shall issue rules and regulations prohibiting any  
21 United States person, with respect to his activities in the  
22 interstate or foreign commerce of the United States, from  
23 taking or knowingly agreeing to take any of the following  
24 actions with intent to comply with, further, or support any



1 *boycott fostered or imposed by a foreign country against*  
2 *a country which is friendly to the United States and which*  
3 *is not itself the object of any form of boycott pursuant to*  
4 *United States law or regulation:*

5       “(A) *Refusing, or requiring any other person to*  
6 *refuse, to do business with or in the boycotted country,*  
7 *with any business concern organized under the laws of*  
8 *the boycotted country, with any national or resident of*  
9 *the boycotted country, or with any other person, pursuant*  
10 *to an agreement with, a requirement of, or a request*  
11 *from or on behalf of the boycotting country. The mere*  
12 *absence of a business relationship with or in the boy-*  
13 *cotted country, with any business concern organized*  
14 *under the laws of the boycotted country, with any na-*  
15 *tional or resident of the boycotted country, or with any*  
16 *other person, does not indicate the existence of the intent*  
17 *required to establish a violation of rules and regula-*  
18 *tions issued to carry out this subparagraph.*

19       “(B) *Refusing, or requiring any other person*  
20 *to refuse, to employ or otherwise discriminating against*  
21 *any United States person on the basis of race, re-*  
22 *ligion, sex, or national origin of that person or of*  
23 *any owner, officer, director, or employee of such person.*

24       “(C) *Furnishing information with respect to the*

1      *race, religion, sex, or national origin of any other United*  
2      *States person or of any owner, officer, director, or em-*  
3      *ployee of such person.*

4            *“(D) Furnishing information about whether any*  
5      *person has, has had, or proposes to have any business*  
6      *relationship (including a relationship by way of sale,*  
7      *purchase, legal or commercial representation, shipping*  
8      *or other transport, insurance, investment, or supply)*  
9      *with or in the boycotted country, with any business con-*  
10     *cern organized under the laws of the boycotted country,*  
11     *with any national or resident of the boycotted country,*  
12     *or with any other person which is known or believed*  
13     *to be restricted from having any business relationship*  
14     *with or in the boycotted country. Nothing in this para-*  
15     *graph shall prohibit the furnishing of normal business*  
16     *information in a commercial context as defined by the*  
17     *Secretary of Commerce.*

18           *“(E) Furnishing information about whether any*  
19     *person is a member of, has made contributions to, or is*  
20     *otherwise associated with or involved in the activities of*  
21     *any charitable or fraternal organization which supports*  
22     *the boycotted country.*

23           *“(F) Paying, honoring, confirming, or otherwise*  
24     *implementing a letter of credit which contains any condi-*

1     *tion or requirement compliance with which is prohibited*  
2     *by rules and regulations issued pursuant to this para-*  
3     *graph, and no United States person shall, as a result of*  
4     *the application of this paragraph, be obligated to pay*  
5     *or otherwise honor or implement such letter of credit.*

6     *“(2) Rules and regulations issued pursuant to para-*  
7     *graph (1) shall provide exceptions for—*

8             *“(A) complying or agreeing to comply with require-*  
9             *ments (i) prohibiting the import of goods or services*  
10            *from the boycotted country or goods produced or services*  
11            *provided by any business concern organized under the*  
12            *laws of the boycotted country or by nationals or residents*  
13            *of the boycotted country, or (ii) prohibiting the shipment*  
14            *of goods to the boycotted country, on a carrier of the*  
15            *boycotted country, or by a route other than that pre-*  
16            *scribed by the boycotting country or the recipient of the*  
17            *shipment;*

18            *“(B) complying or agreeing to comply with im-*  
19            *port and shipping document requirements with respect*  
20            *to the country of origin, the name of the carrier and*  
21            *route of shipment, the name of the supplier of the ship-*  
22            *ment or the name of the provider of other services, except*  
23            *that no information knowingly furnished or conveyed in*  
24            *response to such requirements may be stated in negative,*

1       *blacklisting, or similar exclusionary terms after the ex-*  
2       *piration of one year following the date of enactment of*  
3       *the Export Administration Amendments of 1977;*

4       “(C) *complying or agreeing to comply with the uni-*  
5       *lateral selection by a boycotting country, or national or*  
6       *resident thereof (other than a United States person) of*  
7       *carriers, insurers, suppliers of services within the boy-*  
8       *cotting country or specific goods which, in the normal*  
9       *course of business, are identifiable by source when im-*  
10      *ported into the boycotting country;*

11      “(D) *complying or agreeing to comply with export*  
12      *requirements of the boycotting country relating to ship-*  
13      *ments or transshipments of exports to the boycotted coun-*  
14      *try, to any business concern of or organized under the*  
15      *laws of the boycotted country, or to any national or resi-*  
16      *dent of the boycotted country;*

17      “(E) *compliance by an individual or agreement by*  
18      *an individual to comply with the immigration or passport*  
19      *requirements of any country; and*

20      “(F) *compliance by a United States person resident*  
21      *in a foreign country or agreement by such person to com-*  
22      *ply with the laws of that country with respect to his activ-*  
23      *ities exclusively therein, and such rules and regulations*  
24      *may contain exceptions for compliance with import laws*  
25      *of that country.*

1       “(3) Rules and regulations issued pursuant to para-  
2   graphs (2)(C) and (2)(F) shall not provide exceptions  
3   from paragraphs (1)(B) and (1)(C).

4       “(4) Nothing in this subsection may be construed to  
5   supersede or limit the operation of the antitrust or civil rights  
6   laws of the United States.

7       “(5) Rules and regulations pursuant to this subsection  
8   shall be issued not later than 90 days after the date of  
9   enactment of this section and shall be issued in final form  
10   and become effective not later than 120 days after they  
11   are first issued, except that (A) rules and regulations pro-  
12   hibiting negative certification may take effect not later than  
13   one year after the date of enactment of this section, and  
14   (B) a grace period shall be provided for the application  
15   of the rules and regulations issued pursuant to this sub-  
16   section to actions taken pursuant to contracts or other  
17   agreements in effect on or before March 1, 1977. Such  
18   grace period shall be two years after the date of enactment  
19   of this section and may be extended for three additional  
20   one-year periods in cases in which good faith efforts are  
21   being made to amend such contracts or agreements.

22       “(6) This Act shall apply to any transaction or activity  
23   undertaken with intent to evade the provisions of this Act  
24   regardless of whether such transaction or activity involves  
25   the interstate or foreign commerce of the United States.”.

1       “(b)(1) In addition to the rules and regulations issued  
2 pursuant to subsection (a) of this section, rules and regula-  
3 tions issued under section 4(b) of this Act shall implement  
4 the policies set forth in section 3(5).

5       “(2) Such rules and regulations shall require that any  
6 United States person receiving a request for the furnishing  
7 of information, the entering into or implementing of agree-  
8 ments, or the taking of any other action referred to in sec-  
9 tion 3(5) shall report that fact to the Secretary of Com-  
10 merce, together with such other information concerning such  
11 request as the Secretary may require for such action as he  
12 may deem appropriate for carrying out the policies of that  
13 section. Such person shall also report to the Secretary of  
14 Commerce whether he intends to comply and whether he  
15 has complied with such request. Any report filed pursuant  
16 to this paragraph after the date of enactment of this section  
17 shall be made available promptly for public inspection and  
18 copying, except that information regarding the quantity,  
19 description, and value of any articles, materials, and sup-  
20 plies, including technical data and other information, to  
21 which such report relates may be kept confidential if the  
22 Secretary determines that disclosure thereof would place the  
23 United States person involved at a competitive disadvantage.  
24 The Secretary of Commerce shall periodically transmit sum-  
25 maries of the information contained in such reports to the

1 *Secretary of State for such action as the Secretary of State,*  
2 *in consultation with the Secretary of Commerce, may deem*  
3 *appropriate for carrying out the policies set forth in section*  
4 *3(5) of this Act.”.*

5 *(b) Section 4(b)(1) of such Act is amended by striking*  
6 *out the next to the last sentence.*

7 *(c) Section 7(c) of such Act is amended by striking*  
8 *out “No” and inserting in lieu thereof “Except as otherwise*  
9 *provided by the third sentence of section 4A(b)(2) and by*  
10 *section 6(c)(2)(C) of this Act, no”.*

11 *STATEMENT OF POLICY*

12 *SEC. 202. (a) Section 3(5)(A) of the Export Admin-*  
13 *istration Act of 1969 is amended by inserting immediately*  
14 *after “United States” the following: “or against any United*  
15 *States person”.*

16 *(b) Section 3(5)(B) of such Act is amended to read*  
17 *as follows: “(B) to encourage and, in specified cases, to*  
18 *require United States persons engaged in the export of*  
19 *articles, materials, supplies, or information to refuse to take*  
20 *actions, including furnishing information or entering into or*  
21 *implementing agreements, which have the effect of further-*  
22 *ing or supporting the restrictive trade practices or boycotts*  
23 *fostered or imposed by any foreign country against a country*  
24 *friendly to the United States or against any United States*  
25 *person,”.*

## ENFORCEMENT

1

2       *SEC. 203. (a) Section 6(c) of the Export Administra-*  
3       *tion Act of 1969 is amended—*

4             *(A) by redesignating such section as section 6(c)*  
5       *(1); and*

6             *(B) by adding at the end thereof the following*  
7       *new paragraph:*

8       *“(2)(A) The authority of this Act to suspend or*  
9       *revoke the authority of any United States person to export*  
10       *articles, materials, supplies, or technical data or other in-*  
11       *formation, from the United States, its territories or posses-*  
12       *sions, may be used with respect to any violation of the rules*  
13       *and regulations issued pursuant to section 4A(a) of this*  
14       *Act.*

15       *“(B) Any administrative sanction (including any civil*  
16       *penalty or any suspension or revocation of authority to ex-*  
17       *port) imposed under this Act for a violation of the rules and*  
18       *regulations issued pursuant to section 4A(a) of this Act may*  
19       *be imposed only after notice and opportunity for an agency*  
20       *hearing on the record in accordance with sections 554 through*  
21       *557 of title 5, United States Code.*

22       *“(C) Any charging letter or other document initiating*  
23       *administrative proceedings for the imposition of sanctions for*  
24       *violations of the rules and regulations issued pursuant to sec-*



tion 4A(a) of this Act shall be made available for public  
inspection and copying.”.

3           (b) Section 8 of such Act is amended by striking out  
4    “The” and inserting in lieu thereof “Except as provided in  
5    section 6(c)(2), the”.

## 6 DEFINITIONS

7        *SEC. 204. Section 11 of the Export Administration Act*  
8   *of 1969 is amended to read as follows:*

## 9 “DEFINITIONS

10           “*SEC. 11. As used in this Act—*

11           “(1) the term ‘person’ includes the singular and  
12           the plural and any individual, partnership, corporation,  
13           or other form of association, including any government  
14           or agency thereof; and

“(2) the term ‘United States person’ means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President.”.

1

*PREEMPTION*

2       *SEC. 205. The amendments made by this title and the*  
3 *rules and regulations issued pursuant thereto shall preempt*  
4 *any law, rule, or regulation of any of the several States or*  
5 *the District of Columbia, and any of the territories or pos-*  
6 *sessions of the United States, or of any governmental sub-*  
7 *division thereof, which law, rule, or regulation pertains to*  
8 *participation in, compliance with, implementation of, or the*  
9 *furnishing of information regarding restrictive trade prac-*  
10 *tices or boycotts fostered or imposed by foreign countries*  
11 *against other countries.*

Amend the title so as to read: "A bill to amend and extend the Export Administration Act of 1969."

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**A BILL**

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To amend and extend the Export  
Administration Act.

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By Mr. STEVENSON, Mr. MOYNIHAN, Mr. DOM-  
ENICI, Mr. MATSUNAGA, Mr. PELL, and Mr.  
DeCONCINI

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JANUARY 10, 1977

Read twice and referred to the Committee on  
Banking, Housing, and Urban Affairs

APRIL 26 (legislative day, FEBRUARY 21), 1977

Reported with an amendment to the text, and an  
amendment to the title